

IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD

MONDAY, THE NINTH DAY OF JANUARY
TWO THOUSAND AND TWENTY THREE
PRESENT

THE HONOURABLE SRI JUSTICE T.VINOD KUMAR
AND
THE HONOURABLE Smt. JUSTICE P.SREE SUDHA

Tax Revision Case No. 48 of 2022

Tax revision under Section 22(1) of A.P.G.S.T. Act, 1957, aggrieved by the order dated 08.09.2009 in T.A.No.810 of 2008 on the file of the Sales Tax Appellate Tribunal, Hyderabad against the order dated 05.06.2008 in CCTs.Ref.No.LV(1)/1029/2007-APGST on the Joint Commissioner (CT) (Legal)-FAC- O/o, The Commissioner of Commercial Taxes, Hyderabad, preferred against the order dated 12.10.2004 in Appeal No.S/49/2004-2005 on the file of the Appellate Deputy Commissioner (CT), Secunderabad Division, Hyderabad, against the order dated 31.03.2004 in Assessment No.A2/41/2000-01 on the file of the Commercial Tax Officer, General Bazar, Secunderabad.

Between:

The State of Andhra Pradesh, Rep. by the State Representative before STAT,
D.No.5-4-404 to 408 Nampally, Hyderabad.

...Petitioner/Respondent.

AND

M/s. Kilburn Reprographics Ltd., 5-4-187/2, Karbala Maidan, M.G. Road,
Secunderabad.

...Respondent/Appellant.

Counsel for the Petitioner: Sri K. Raji ^{Reddy,} ~~Reddy,~~ The Spl. Standing Counsel
Commercial Taxes.

Counsel for the Respondent: --

The Court made the following: ORDER

**THE HON'BLE SRI JUSTICE T. VINOD KUMAR
AND
THE HON'BLE SMT JUSTICE P.SREE SUDHA**

TREVC. No. 48 of 2022

ORDER: *(per the Hon'ble Sri Justice T.Vinod Kumar)*

This Tax Revision Case, at the behest of Revenue, is filed against the order of the Sales Tax Appellate Tribunal (for short 'the Tribunal'), dt.08.09.2009 in TA.No.810 of 2008 preferred by the respondent-assessee.

2. Heard Sri K.Raji Reddy, learned Special Standing Counsel appearing for the revision petitioner-State and perused the record.

3. The question of law raised in the present revision case relates as to whether the photo-copying machines are to be classified as 'electric goods' under Entry-12 dealing with 'type Writers, tabulating calculating machines, teleprinters and teleprinting machines and duplicating machines and parts and accessories thereof or to be classified as 'electronic goods' as falling under Entry 38D of the Schedule-I to the APGST Act, 1957(for short 'the Act').

4. When the matter is taken up for hearing, Sri K.Raji Reddy, learned Special Standing Counsel would fairly submit that the question of law as raised in the present revision case is squarely covered by the decisions of the Hon'ble Supreme Court in **M/s BPL**

Ltd. v. State of Andhra Pradesh¹ as well as **M/s Concap Capacitors vs State Of Andhra Pradesh and Anr.²**

5. The Hon'ble Supreme Court in the case of **M/s BPL Ltd** (1 supra) held that the goods, which operate on the principle of electronics, would have to be classified as electronic goods. Also, the Supreme Court in **M/s Concap Capacitors'** case(2 supra) held that *'the list prepared by the electronic commission has to be treated as part of the Government Order and tax has to be levied on that basis'*. The Supreme Court in the said case while considering as to whether capacitors are covered by items 'electronic goods' or 'electric goods' held that *since the Electronic Commissioner included 'Capacitors' as one of the items, it was not open to the Tribunal to enter into the question as to the functions to be performed by Capacitors and to remit the matter to decide as to whether it would be covered by the item 'electronic goods' or 'electric goods'*.

6. The Tribunal following the ratio laid down by the Supreme Court in the case of **M/s Concap Capacitors** (2 supra), referring to the guidelines issued by the Electronics Commission, found that photo-copying machine has been specified in the list at S.No.9.42 - "Electronic Paper Copiers" under the head of 'Data Processing Systems and Office Equipment', and held that irrespective of the fact whether duplicating machines were referred under Entry

¹ 32 APSTJ 41

² (2007) 10 VST 204 (SC)

12 or under Entry 38D of Schedule-I, would have to be treated as 'electronic goods'.

7. It is not shown to this Court that in spite of petitioner/Revenue placing on record material to show that the photocopying machines sold by the respondent/assessee do not operate on principle of electronics, such a finding is given by the Tribunal.

8. Further, this Court, in similar circumstances, in WP.No.28409 of 2008, dealing with microwaves, by order dt.15.12.2022, following the decision of the Hon'ble Supreme Court in **M/s BPL Ltd.**'s case (1 supra) and **M/s Concap Capacitors'** case (2 supra) held that once the goods are classified as electronic goods under the guidelines issued by the Electronics Commission, it is not open for the Assessing Authority to classify the same as electric goods or under any other entry of the Act on the ground of existence of specific entry in the Schedule of the Act.

9. In view of the above settled position of law, the question of law raised in the present Tax Revision Case is without any merit.

10. Accordingly, this Tax Revision Case is dismissed. No order as to costs.

11. Consequently, miscellaneous petitions pending, if any, shall stand closed in the light of this final order.

SD/-M.VIJAYA BHASKAR
JOINT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Sales Tax Appellate Tribunal, Hyderabad
2. The Joint Commissioner (CT) (Legal)-FAC- O/o. The Commissioner of Commercial Taxes, Hyderabad.
3. The Appellate Deputy Commissioner (CT), Secunderabad Division, Hyderabad.
4. The Commercial Tax Officer, General Bazar, Secunderabad.
5. One CC to the Spl., Standing Counsel for Taxes [OPUC]
6. Two CD Copies

HIGH COURT

DATED:09/01/2023

ORDER

TRC.No.48 of 2002



Dismissing the T.R.C.
without costs.

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